



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/671,021	08/10/84	ERANDSTROM	2095-4

BRUNBAUGH, GRAVES, DONOHUE AND RAYMOND
31 ROCKEFELLER PLAZA
NEW YORK, NY 10112

EXAMINER	
FRIED	
ART UNIT	PAPER NUMBER
121	11

DATE MAILED: 08/29/85

This is a communication from the examiner in charge of your application.

COMMISSIONER OF PATENTS AND TRADEMARKS

☐ This application has been examined ☒ Responsive to communication filed on 7-5-85 and 7-15-85 ☒ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), — days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice re Patent Drawing, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449 | 4. <input type="checkbox"/> Notice of Informal Patent Application, Form PTO-152 |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474 | 6. <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-7, 16-31 are pending in the application.
Of the above, claims 5-7 are withdrawn from consideration.
2. ☐ Claims _____ have been cancelled.
3. ☐ Claims _____ are allowed.
4. ☒ Claims 1-4, 16-31 are rejected.
5. ☐ Claims _____ are objected to.
6. ☐ Claims _____ are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings which are acceptable for examination purposes until such time as allowable subject matter is indicated.
8. ☐ Allowable subject matter having been indicated, formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____. These drawings are ☐ acceptable; ☐ not acceptable (see explanation).
10. ☐ The ☐ proposed drawing correction and/or the ☐ proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed _____, has been ☐ approved. ☐ disapproved (see explanation). However, the Patent and Trademark Office no longer makes drawing changes. It is now applicant's responsibility to ensure that the drawings are corrected. Corrections MUST be effected in accordance with the instructions set forth on the attached letter "INFORMATION ON HOW TO EFFECT DRAWING CHANGES", PTO-1474.
12. ☐ Acknowledgment is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received
☐ been filed in parent application, serial no. _____; filed on _____.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

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Serial No. 640020

-2-

Art Unit 121

Claims 1-4, 16-31 are again rejected under 35 USC 103 as being obvious over the art of record for reasons of record. Applicant's arguments and the two 312 declarations have been carefully considered, but are deemed unpersuasive for the following reasons:

1. The evidence presented is not commensurate with the ^dbreath of the claims. The temperature 37°C and 50°C are not room temperatures such as 20°C or 25°C. Only three salts are being compared whereas eight salts are being claimed.

2. The samples were compared in chemical compound form only not in pharmaceutical formulation form. A pharmaceutical formulation can be in aqueous solution or mixed with inert carriers to form capsule or tablet and the like.

3. The table showing the degradation product is not convincing. It appears that calcium and magnesium salts at one and half month are actually less stable than omeprazole. The sodium salt, magnesium salt, calcium salt are less stable than the neutral compound at 37/80.

4. The remark at page 4 of applicant's response is not well taken. CF₃ group is not listed at page 831 as an electron withdrawing group. As a matter of fact ~~CH₃~~ - CF₃ group should stabilize the anion.

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Serial No. 640020

-3-

Art Unit 121

Claims 5-7 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b) as being drawn to a nonelected invention. Election was made without traverse in Paper No. 9.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). The practice of automatically extending the shortened statutory period an additional month upon the filing of a timely first response to a final rejection has been discontinued by the Office. See 1021 TMOG 35.

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 CFR 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

Fan:ce

8/28/85

A/C 703

557-3920

James T. Fan
JAMES T. FAN
PRIMARY EXAMINER
ART UNIT 121

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